

CONFERENCE OF THE EIGHTEEN-NATION COMMITTEE
ON DISARMAMENT

ENDC/PV.377
12 March 1968
ENGLISH

THE UNIVERSITY
OF MICHIGAN

APR 29 1968

DOCUMENT
COLLECTION

FINAL VERBATIM RECORD OF THE THREE HUNDRED AND SEVENTY-SEVENTH MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 12 March 1968, at 10.30 a.m.

Chairman:

U MAUNG MAUNG

(Burma)

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PRESENT AT THE TABLE

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|------------------------|---|
| <u>Brazil:</u> | Mr. J.A. de ARAUJO CASTRO Mr. C.A. de SOUZA e SILVA Mr. A. da COSTA GUIMARAES Mr. O. MUNIZ OLIVA |
| <u>Bulgaria:</u> | Mr. K. CHRISTOV Mr. B. KONSTANTINOV |
| <u>Burma:</u> | U MAUNG MAUNG U KYAW MIN |
| <u>Canada:</u> | Mr. E.L.M. BURNS Mr. A.G. CAMPBELL Mr. J.R. MORDEN Mr. A. BERNIER |
| <u>Czechoslovakia:</u> | Mr. P. WINKLER Mr. T. LAHODA Mr. V. VAJNAR |
| <u>Ethiopia:</u> | Mr. A. ZELLEKE Mr. B. ASSFAW |
| <u>India:</u> | Mr. M.A. HUSAIN Mr. K.P. JAIN |
| <u>Italy:</u> | Mr. R. CARACCILOLO Mr. G.P. TOZZOLI Mr. E. FRANCO Mr. R. BERLENGHI |
| <u>Mexico:</u> | Mr. A. GOMEZ ROBLEDO Mr. A. CARRANCO AVILA |
| <u>Nigeria:</u> | Alhaji SULE KOLO Mr. B.O. TONWE |

Poland:

Mr. M. BLUSZTAJN
Mr. E. STANIEWSKI
Mr. S. DABROWA

Romania:

Mr. N. ECOBESCO
Mr. O. IONESCO
Mr. C. GEORGESCO
Mr. A. COROIANU

Sweden:

Mrs. A. MYRDAL
Mr. A. EDELSTAM
Mr. M. STAHL
Mr. R. BOMAN

Union of Soviet Socialist
Republics:

Mr. A.A. ROSHCHIN
Mr. O.A. GRINEVSKY
Mr. V.V. SHUSTOV
Mr. V.B. TOULINOV

United Arab Republic:

Mr. H. KHALLAF
Mr. O. SIRRY
Mr. M. SHAKER

United Kingdom:

Mr. I.F. PORTER
Mr. R.I.T. CROMARTIE

United States of America:

Mr. W.C. FOSTER
Mr. S. DePALMA
Mr. L.D. WEILER
Mr. C.G. BREAM

Special Representative of the
Secretary-General:

Mr. D. PROTITCH

1. The CHAIRMAN (Burma): I declare open the 377th plenary meeting of the Conference of the Eighteen-Nation Committee on Disarmament.
2. Mr. ROSHCHIN (Union of Soviet Socialist Republics) (translation from Russian): In the discussion concerning the draft treaty on the non-poliferation of nuclear weapons (ENDC/192/Rev.1, 193/Rev.1) great attention has been given to the question of control over the fulfilment by the parties to the treaty of their obligations under the treaty to the question in what way and how effectively the provisions of the treaty, especially article III, ensure compliance with the treaty by the parties to it.
3. Some delegations, in particular the representative of the United Arab Republic, Mr. Khallaf (ENDC/PV.367, paras. 14 et seq.), have expressed misgivings concerning whether article III provides to a sufficient extent the assurance that the basic obligations assumed under the treaty will be fulfilled and that the main purpose of the treaty--the non proliferation of nuclear weapons-- will be achieved. In this connexion the following questions have been raised: is there any assurance that the agreements on control over the fulfilment of the obligations assumed under the treaty will be complied with in practice; and will control be applied in the same way to the different States?
4. In stating our views on the first of these questions, namely whether the treaty will be complied with in practice, we must first of all point out that, as is well known, under article III of the draft non-proliferation treaty the agreements on control are to be concluded with the International Atomic Energy Agency (IAEA) in accordance with the Agency's Statute and safeguards system; (INFCIRC/66/Rev.1) consequently the provisions of the Agency's Statute that ensure compliance with the agreements on safeguards will also be applied to the agreements concluded in accordance with article III of the non-proliferation treaty.
5. The Agency's Statute gives it considerable authority to observe how the safeguards agreements are complied with by States which have concluded such agreements with it. The rights and obligations of IAEA in this field are set forth in article XII of its Statute, which contains a whole set of measures designed to ensure the fulfilment of agreements on safeguards. Thus under this article, in the event of non-compliance by any State with the agreement on safeguards, IAEA is entitled to demand the immediate remedy of any non-compliance which it has discovered and to report this to all members of the Agency and also to the Security Council and the General Assembly of the United Nations.

6. In its activities over a period of more than ten years the Agency has acquired great experience in the application of safeguards. By October 1967 the Board of Governors of the Agency had approved 35 agreements on safeguards. Twenty-nine countries apply the safeguards which cover 65 reactors. Speaking of the possibilities of the Agency in regard to control functions under a non-proliferation treaty, the Director-General of the International Atomic Energy Agency, Mr. Eklund, stated at its eleventh General Conference in September 1967 that it was prepared to assume such functions. He said:

"The control organization which we have is capable of doing this; and we can say with conviction that the Agency is the best organization available for the implementation of such an important task."^{1/}

7. The experience of the International Atomic Energy Agency in applying safeguards has been recognized in the Treaty for the Prohibition of Nuclear Weapons in Latin America of 14 February 1967 (ENDC/186). It is well known that the system of control provided for by this treaty includes the application of IAEA safeguards to the activities in the field of nuclear energy of the States parties to the Latin-American treaty.

8. In view of what we have just explained we consider that the control measures provided in article III duly ensure compliance with the treaty on the non-proliferation of nuclear weapons.

9. On the question whether control will be applied uniformly to different States, it is necessary above all to point out that article III, paragraph 1, states quite clearly that agreements concerning verification of the fulfilment of the obligations assumed under the treaty will be concluded with the International Atomic Energy Agency "in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system." In accordance with paragraph 5 of the document concerning IAEA safeguards,

"The Agency will not assume such responsibility [for administering safeguards] unless the principles of the safeguards and the procedures to be used are essentially consistent with those set forth in this document."

10. Accordingly the agreements to be concluded with the Agency must provide for safeguards whose principles and the procedures to be used are in accordance with the principles and procedures laid down in the document concerning the Agency's safeguards. Thus article III of the non-proliferation treaty, the provisions of the Statute of

^{1/} Translated from Russian

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IAEA and of the document concerning the Agency's safeguards will serve as a sound legal basis which should ensure that the agreements concluded with IAEA by parties to the treaty have the necessary degree of uniformity in applying control to the different countries.

11. No inconsiderable importance for ensuring the necessary uniformity of agreements on control attaches also to the fact that on the part of IAEA these agreements are to be approved by its Board of Governors, which is a sufficiently representative body to ensure that various points of view are taken into account in considering such agreements. Moreover, in accordance with the Agency's Statute, in case of need the question of any particular agreement may be referred to the General Conference of the Agency, in which all its members are represented; or this Conference may itself call for a report from the Board of Governors on any given matter.

12. In connexion with the question we have just touched upon, we would mention the statement made by the representative of Nigeria, Alhaji Sule Kolo, who explained the position of his Government in regard to article III as follows;

"We are particularly happy that the safeguards agreements provided for under the article are to be concluded in accordance with the Statute of IAEA. This condition presupposes that all such agreements shall be subject to approval by the Board of Governors of that Agency and that all members of the Agency will have access to the texts of the individual or collective agreements. Under such conditions, and given good will on all sides, the present article III should meeting the needs of non-proliferation." (EMDC/PV.371 para.22)

13. Further, during the discussion the question was raised whether a procedure whereby control would be applied to atomic activities of the non-nuclear States parties to the treaty and would not be extended to the nuclear-weapon States, would not be contrary to the objectives of the treaty. In connexion with that question we should like to point out that the article on control has been so drafted as to ensure that fissionable materials in non-nuclear States shall not be diverted to the production of nuclear weapons. The non-proliferation treaty does not provide for the prohibition of nuclear weapons and their manufacture by the nuclear countries -- although it is indeed a step towards that objective. Therefore, according to the sense of the non-proliferation treaty, there arises no question of control over the activities of the nuclear Powers in the atomic field.

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14. At the same time article III of the treaty has a special provision the purpose of which is to ensure that in their relations with the non-nuclear States the nuclear Powers parties to the treaty do not infringe the purposes which this agreement sets before it. In accordance with paragraph 2 of article III, each State Party to the Treaty, whether nuclear or non-nuclear, undertakes not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, unless there is international control over such material or equipment.

15. The draft treaty on the non-proliferation of nuclear weapons has been drawn up with due regard to the reality of the existence of States possessing nuclear weapons and of States not possessing such weapons. Accordingly it is quite reasonable that the States possessing nuclear weapons and the States not possessing such weapons, in concluding a treaty on the non-proliferation of nuclear weapons, should assume obligations of a different character. This differentiation of the obligations assumed by States under the treaty derives from the purpose of the treaty and is necessary for the achievement of its aim -- to prevent widening of the circle of States possessing nuclear weapons.

16. Despite the difference in character of the obligations of the nuclear and non-nuclear parties, the non-proliferation treaty serves the interests of both types of States, by setting itself the aim of restricting the number of States possessing nuclear weapons. Thereby the treaty reduces the risk of an outbreak of war with the use of atomic and hydrogen bombs. Under the treaty all States are provided with an important means of ensuring their security. Consequently the treaty is based on the common interest of the parties to it in the strengthening of international peace and security.

17. Thus article III, by ensuring the fulfilment of the main purpose of the treaty, meets the interests of all the parties to it. Moreover, where the non-nuclear States are concerned, these, by assuming the obligation not to acquire or to produce nuclear weapons, would like to have the assurance that work on the creation of nuclear weapons is not being carried on in other non-nuclear States in circumvention of the treaty. That is the purpose that will be served by the control system provided by the treaty.

18. Some delegations have raised the question whether the control system provided by the draft treaty on the non-proliferation of nuclear weapons would not create obstacles to the economic and technological development of States parties to the treaty in the

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matter of the peaceful application of nuclear energy, and whether this control would not lead to infringement of the sovereignty of States parties to the treaty and to interference in their internal affairs. We dealt with this question in our statement of 16 February (ENDC/PV.366 paras. 11 et seq.). In addition to what we then said, we deem it appropriate to draw attention to the provision of paragraph 9 of the document on IAEA safeguards, which lays down that "The Agency shall implement safeguards in a manner designed to avoid hampering a State's economic or technological development."

19. As for the question of the sovereign rights of States, it may be pointed out in this connexion that Article III B.1 of the Statute of IAEA lays down that in carrying out its functions the Agency shall "conduct its activities in accordance with the purposes and principles of the United Nations". The provisions of the United Nations Charter concerning the purposes and principles of the United Nations forbid any intervention "in matters which are essentially within the domestic jurisdiction of any State..." (Article 2, para. 7). Moreover, observance of the principle of the sovereign rights of States in the implementation of the control system is guaranteed by the provision of Article III D of the Statute of IAEA which lays down that "the activities of the Agency shall be carried out with due observance of the sovereign rights of States."

20. Thus the provisions of the draft treaty on the non-proliferation of nuclear weapons relating to international control over the fulfilment of the obligations assumed under the treaty do not allow any interference in the internal affairs of the States parties to this treaty or any infringement of their sovereignty in connexion with the implementation of such control.

21. There is one more question to which we should like to devote attention namely the procedure for withdrawal from the treaty as set forth in paragraph 1 of article X, which provides for the right of a party to withdraw from the treaty if it decides that extraordinary events, related to the subject matter of the treaty, have jeopardized the supreme interests of its country. The State must give notice of such withdrawal to all other parties to the treaty and to the United Nations Security Council three months in advance, and must specify the extraordinary events which it regards as having jeopardized its supreme interests.

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22. During the discussion of the draft non-proliferation treaty, critical comments have been made regarding the provisions of the aforesaid paragraph of article X. Thus the representative of Brazil, Mr. de Araujo Castro, questioned the appropriateness of the obligation laid down in that paragraph in regard to notifying the Security Council. He pointed out in particular that --

"... the Charter of the United Nations entrusts the Security Council with functions specifically related to the maintenance of world peace and security and not with those of participating in the mechanism of withdrawal from any treaty."

(ENDC/PV.363, para.58)

23. It has also been asked on what legal grounds the notice of withdrawal from the treaty to be sent to the parties to the treaty and to the Security Council must contain a statement of the extraordinary events which the State withdrawing from the treaty regards as having jeopardized its supreme interests.

24. Let us consider first of all the question whether the obligation to notify the Security Council corresponds to the United Nations Charter, and in particular to those provisions of the Charter which confer on the Security Council responsibility for the maintenance of international peace and security. In other words, would it be legal to include in the non-proliferation treaty an obligation to inform the Security Council of the facts leading to withdrawal from this treaty?

25. Any increase in the number of States possessing nuclear weapons is fraught with the grave danger of an outbreak of nuclear war. The further spread of nuclear weapons may jeopardize the peace and security of all States. The United Nations General Assembly has repeatedly drawn attention to this in its resolutions on the subject of the non-proliferation of nuclear weapons. Thus resolution 1576 (XV), adopted on 20 December 1960, recognizes --

"...the urgent danger that now exists that an increase in the number of States possessing nuclear weapons may occur, aggravating international tension and the difficulty of maintaining world peace..."

Resolutions 1665 (XVI) of 4 December 1961, 2028 (XX) of 19 November 1965 (ENDC/161) and 2149 (XXI) of 4 November 1966 (ENDC/185) stress that proliferation of nuclear weapons would endanger the security of all States.

26. Thus there can hardly be any doubt that the spread of nuclear weapons is fraught with danger to international peace and security. For this reason it is well-founded and logical to conclude that a treaty on the non-proliferation of nuclear weapons will

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be an instrument for eliminating the threat to peace created by an increase in the number of nuclear States. Consequently observance of a non-proliferation treaty and its effectiveness are bound to be related to the powers of the Security Council, which, according to the United Nations Charter, Article 24, has the primary responsibility for the maintenance of international peace and security.

27. It is in the light of this relationship between the non-proliferation treaty and the powers of the Security Council that we should consider the question of why, in the event of withdrawal from the treaty by any of the parties to it, notice of the withdrawal together with a statement of the reasons should be sent to the Security Council.

28. During the discussion in the Committee some delegations have referred to the necessity of giving such notice to the Security Council. Thus at the meeting of 2 November 1967 the representative of Nigeria spoke in favour of giving notice of withdrawal to the Security Council, such notice to include a statement of the reasons for withdrawal from the treaty (ENDC/PV.344, para.16).

29. For this reason there appears to be every justification for including in the draft non-proliferation treaty the obligation to give notice of withdrawal not only to the other parties to the treaty but also to the Security Council, which, as I have already pointed out, has been entrusted by the States Members of the United Nations with the primary responsibility for the maintenance of international peace and security.

30. We deem it appropriate to recall that the idea of informing the Security Council in the event of the withdrawal of a State from the treaty has also been embodied in the Treaty for the Prohibition of Nuclear Weapons in Latin America of 14 February 1967, Article 30, paragraph 2 of which provides that the General Secretary of the Agency for the Prohibition of Nuclear Weapons in Latin America shall immediately communicate notification of a State's denunciation of the treaty to "the Secretary-General of the United Nations for the information of the Security Council and the General Assembly of the United Nations." (ENDC/186)

31. It is interesting to note that the Statute of the International Atomic Energy Agency also provides for notification of the Security Council in its article XII on the Agency's safeguards. Article XII C states that --

"The Board [of Governors] shall report the non-compliance" -- with the rules concerning IAEA safeguards -- "to all members and to the Security Council and General Assembly of the United Nations."

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32. Now let us consider the question whether the sovereignty of States is infringed by the obligation laid down in article X to include in the notice of withdrawal to be sent to the other parties to the treaty and to the Security Council a statement of the extraordinary events which have jeopardized the supreme interests of the State withdrawing from the treaty.

33. The international legal basis in virtue of which, as provided in the draft treaty, the notice of withdrawal must contain a statement of the extraordinary events that have jeopardized the supreme interests of the State withdrawing from the treaty, is the voluntary agreement of the contracting States to assume that aforesaid obligation. For this reason no question arises of infringement of State sovereignty or of any other infringement of international law if a State withdrawing from the treaty on the non-proliferation of nuclear weapons notifies the other parties to the treaty and the Security Council of the reasons for its decision to withdraw, in accordance with the obligation it has voluntarily assumed.

34. The appropriateness of the inclusion of such an obligation in the treaty derives from the fact that in the event of the withdrawal of any State from the non-proliferation treaty the other parties to this treaty must receive an explanation of the reasons for withdrawal from the treaty, not from any other source, but from the State itself that withdraws from the treaty. Receipt by the Security Council of such notice together with a statement of the reasons directly from the State concerned would help the Security Council to fulfil its functions more effectively. Who could explain better than the State concerned the reasons and events which have compelled it to withdraw from the treaty?

35. The obligation laid down in the treaty to state the reasons for withdrawal in the notices to be sent in such a case to the other parties to the treaty and to the Security Council will provide a certain element of restraint, since a State intending to withdraw from the treaty will have to ponder, before taking such a step, how it will be regarded by world public opinion. The reaction of the Security Council to such a notice will depend on the situation which has led to the withdrawal of a particular State from the treaty or which might come about in connexion with such withdrawal. In such cases the Security Council would fulfil the functions entrusted to it under the Charter of the United Nations.

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36. Those of our considerations concerning some of the aspects of the draft treaty on the non-proliferation of nuclear weapons which have been touched upon in the statements made by delegations at meetings of the Eighteen-Nation Committee on Disarmament.

37. Mr. KHALLAF (United Arab Republic): Once again I have to thank Mr. Roshchin for the clarifications he has given to my delegation and to the Committee. Of course my delegation will consider these clarifications with all the care they deserve.

The Conference decided to issue the following communiqué:

"The Conference of the Eighteen-Nation Committee on Disarmament today held its 377th plenary meeting in the Palais des Nations, Geneva, under the chairmanship of H.E. Ambassador U Maung Maung, representative of Burma.

"Statements were made by the representatives of the USSR and the United Arab Republic.

"The next meeting of the Conference will be held on Wednesday, 13 March 1968, at 10.30 a.m."

The meeting rose at 11.25 a.m.